

Guidelines:

Schedule of Compliance

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What is a Schedule of Compliance?

A schedule of compliance details an enforceable sequence of actions that will return a source to compliance. A source is required to have a schedule of compliance in its title V permit if it is not in compliance with one or more applicable requirements at the time of title V permit issuance.

CAA 503(b)(2) requires title V sources to “submit a compliance plan describing how the source will comply with all applicable requirements under this Act...includ[ing] a schedule of compliance, and a schedule under which the permittee will submit progress reports...” CAA 504(a) requires each title V permit to include “...a schedule of compliance...” These requirements are detailed in §§70.5(c)(8) and 70.6(c)(3).

Why Review Schedules of Compliance?

The title V permit must assure compliance with all applicable requirements. Where a source is not in compliance, the schedule of compliance establishes enforceable milestones to bring the source into compliance and requires status reports on at least a semi-annual basis. The schedule of compliance documents that the source has a plan for correcting the problem, and provides means of tracking the source’s progress.

Tips for Permit Review

There are two steps in reviewing schedules of compliance:

- Determine whether the permit contains, or should contain, a schedule of compliance, and, if so,
- Review the schedule of compliance to assure it meets part 70 requirements.

Determine Whether the Permit SHOULD Contain a Schedule of Compliance

When reviewing a title V permit

- Check the permit for schedules of compliance
- Check the application to see if the source certified non-compliance for any applicable requirements
- Check with permitting and enforcement staff to determine if there is any ongoing non-compliance.

If there is potential non-compliance

- Check the permit to see if a schedule of compliance has been included for each applicable requirement for which the source is out of compliance. If not,

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- Review the statement of basis for documentation that the source has returned to compliance. If the source is in compliance at time of permit issuance, no schedule of compliance is needed.
- If the statement of basis does not provide this information, contact the permitting authority to determine the source's compliance status.
- Based on the above information, determine whether a schedule of compliance must be added to the title V permit.
- Consult with Region 9 enforcement to make sure they are aware of potential non-compliance situations or if the schedule does not appear to bring the source into compliance in a prompt and expeditious manner.

Schedule of Compliance Checklist

If a permit does or should contain a schedule of compliance, the following elements must be included:

- Does the schedule cover each applicable requirement for which the source is not in compliance?
- Does the schedule include remedial measures, including a sequence of actions with milestones leading to compliance with all applicable requirements?
- Are the actions enforceable as a practical matter?
- Is the schedule at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject?
- Does the permit include a schedule for submission of certified progress reports no less frequently than every 6 months?
- Are the progress reports required to contain
 - dates for achieving the activities, milestones, or compliance required,
 - dates when such activities, milestones, or compliance were achieved, and
 - an explanation of why any dates in the schedule were not or will not be met, and any preventive or corrective measures adopted?

Example Schedule of Compliance

The source in the following example failed to conduct an initial source test as required under an applicable NSPS subpart:

1. By [3 months from permit issuance], the permittee shall submit a stack test protocol consistent with EPA Reference Method X to the permitting authority for approval.

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2. By [6 months from permit issuance], the permittee shall conduct a stack test consistent with the protocol approved by the permitting authority as specified by NSPS Subpart [].
3. By [7 months from permit issuance], the permittee shall submit the stack test report to the permitting authority.